

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 18-cr-30051-MGM
)	
GREGG A. BIGDA,)	
)	
Defendant)	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S
MOTION FOR LEAVE TO FILE EXPERT DISCLOSURE**

On December 8, 2020, the Defendant filed notice of his intent to call as an expert witness Dr. Elizabeth Laposada, a forensic pathologist from whom he seeks to elicit expert testimony that “the injuries suffered by D.R. and E.P. are inconsistent with having been caused by a kick with a shod foot.” (ECF 224). The next day, the United States filed a request for disclosure, required under Federal Rule of Evidence 702, of an expert report setting forth the specific “facts and data” and “principles and methods” supporting Dr. Laposada’s expert opinion. (ECF 225). On February 17 and March 4, 2021, the United States followed up on this request by emailing defense counsel, but did not receive a response.

On October 8, 2021, the Defendant filed a motion for leave to disclose Dr. Laposada as an expert witness. (ECF 247). The motion reiterates that Dr. Elizabeth Laposada is a forensic pathologist from whom he seeks to elicit expert testimony that “the injuries suffered by D.R. and E.P. are inconsistent with having been caused by a kick with a shod foot,” but the motion does not include an expert report from Dr. Laposada identifying the bases for her opinion.

Without an expert report, the United States has an insufficient basis to evaluate whether Dr. Laposada’s opinion satisfies the requirements of Rule 702: that it is “based on sufficient facts or data”; that it “is the product of reliable principles and methods”; and that the expert “reliably

applied the principles and methods to the facts of the case.” Fed. R. Evid. 702. Specifically, the United States does not know what materials were (and were not) provided to Dr. Laposada, or the rationale for her conclusion that E.P.’s broken nose and D.P.’s swollen forehead are inconsistent with having been kicked with a shod foot. Accordingly, the United States renews its request for an expert report, and reserves the right to challenge her testimony if it fails to satisfy the requirements of Rule 702.

Respectfully submitted,

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Certificate of Service

October 13, 2021

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Deepika Bains Shukla

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